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EXAMINER

DINH, DUNG C

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2153

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/091,513
Filing Date: March 07, 2002
Appellant(s): MOSES ET AL.

Ari G. Akmai
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 11/28/05
appealing from the Office action mailed 7/13/04.

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(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

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The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,236,971	Stefik et al.	11-1994
2002/0078377	Chang et al.	12-2000

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-13, 14-26, 27-39, 40-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stefik et al. US patent 6,236,971 and further in view of Chang et al. Pub. No. US 2002/0078377 (prior art submitted by applicant 1/9/03 - paper #7).

As per claim 1, Stefik teaches a method for sharing an object [digital work] comprising the steps of:

storing a reference [digital ticket] to the object in a first repository [see col.51 claim 1 step d - "second repository"];

performing a first operation to store a duplicate of the reference to the object in a second repository [col.51 step e - copying of the digital ticket to a third repository];

wherein the first operation is in accordance with a first privilege granted as defined by a permission [col.51 claim 3 - permission granted as a result of paying a fee].

Stefik does not specifically disclose the object (digital work) being an invokable software object. However, it is known at the time of the invention to share/lease invokable software objects. Chang et al. discloses a system where invokable software objects are computer

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resources that can be leased for used over a distributed network (see fig.2d, fig.3, paragraph [0035]). It would have been obvious for one of ordinary skill in the art at the time of the invention to apply the teaching of Stefik to control the leasing of invokable software objects because it would have enabled the owner of a software object to specify the usage and distribution rights to the software object (see Stefik abstract, col.4 lines 6-14).

As per claim 2, Stefik teaches the reference is to an object of a first site ["first repository"].

As per claim 3, Stefik teaches adding the object to a second site [col.51 step i].

As per claims 4-5, Stefik teaches an operating to remove the object from a repository [col.38 lines 18-29].

As per claim 6, it is apparent Stefik provides access to the duplicate of the reference [i.e. another repository requesting the digital ticket].

As per claims 7-9, Stefik teaches access is in accordance with a second privilege [apparent from col.11 lines 33-44, col.44 lines 8-23, col.46 lines 1-20] and storing in a third repository [the distributor repository, etc.].

As per claims 10-11, Stefik teaches an operating to remove the object from a repository [col.38 lines 18-29].

As per claim 12, Stefik teaches reference to child object [apparent from col. 11 line 58 to col.12 line 8].

As per claim 13, Stefik teaches excluding reference to a child object [apparent from col.12 lines 21-38].

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As per claims 14-26 and 27-39, they are rejected under similar rationales as for claims 1-13 above.

As per claim 40, it is rejected under similar rationale as for claim 1 above. Since the object (digital work) is originally stored in Stefik's "first repository", Stefik's "second repository" and "third repository" can 'share' a reference (digital ticket) to the object stored on the "first repository". Hence, the repositories comprise a shared repository as claimed.

As per claim 41, it is apparent that a second copy of the reference (digital ticket) can be made to another third repository if the ticket permits multiple copies.

As per claim 42, another third repository would be considered as part of a shared repository for the same rationale as stated for claim 40 above.

As per claim 43, Stefik teaches the reference (digital ticket) is copied from one repository to another [col.51 line 45, col.4 lines 37-40]. The object (digital work) itself is not transferred to the repository until access to the object is requested using the reference (digital ticket). Hence, the object is not copied to the repository during the creation of the copy of the reference.

As per claim 44, Stefik does not specifically disclose storing object in a database remote from the shared repository. However, for reliability purposes, it is well known in the art to store data in a remote database for archival or backup. Hence, it would have been obvious for one of ordinary skill in the art to store the object in a remote database because it would have enabled backup of the object.

(10) Response to Argument

The contentions in this appeal boil down to essentially two points:

- a) is Stefik's ticket a reference to an object?
- b) is providing an invokable software object as a digital work an obvious variation of Stefik's teaching?

Regarding point a), applicant argues that "reference to an object" is understood in the art to be a reference that points to the location of an object in a database or file system and identifies the object type. (Brief page 12 2nd paragraph). The argument is not persuasive because the specification does not require such a narrow definition. The specification uses the phrase "reference to an object" without any further elaboration on its meaning.

Examiner is to give claims their broadest reasonable interpretation in light of the supporting disclosure. In re Morris, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997). Since the specification does not limit the definition of the phrase "reference to an object", the Examiner uses the ordinary function of a reference - e.g. to refer to, to designate, identify or associate.

Stefik teaches the holder of a digital ticket is entitled to certain usage rights with respect to a digital work

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(abstract, col.4 lines 6-15). Stefik defines "usage right" as "rights granted to a recipient of a digital work. ... these rights define how a digital work can be used and if it can be further distributed" (col.6 lines 46-59). It is implicit from Stefik teaching that a digital ticket issued for a particular digital work and can only be used for access to that particular digital work.

Applicant argues that Stefik's ticket not a reference because is similar to a generic ticket at a fair. The holder of the ticket is entitled to participate in any activity. There is nothing in the ticket to associate the ticket to a particular activity at the fair. The analogy is not persuasive because if the digital ticket is merely a generic ticket that not associate with a particular work, this would be not be conforming to the teaching of Stefik. For example, col.4 lines 40-45 and col.46 lines 20-68, Stefik teaches that digital ticket may be used for prepaid upgrades or number of time to make copies of a digital work. Clearly the digital ticket cannot be a generic ticket for upgrade or copy any work in the repository. The ticket implicitly only permit the holder to upgrade or make copies of the work originally purchased. The digital ticket inherently must contain some information to associate it with a particular digital work in order to ensure that the ticket is applied to

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the right work. Stefik's digital work corresponds to an object of the invention. Hence, the ticket is a reference to an object because it refers to or associates with an object (i.e. a digital work).

Applicant cited col.34 lines 16-43 where Stefik discloses a message to initiate a copy transaction must indicate the work to be copied. Applicant concluded that since the message must indicate the work and the ticket is send separately from the message, the ticket is not specific to the digital work requested and may be used in transaction for other digital works. The argument is not persuasive because as stated above Stefik's ticket entitles the holder to specific usage rights to a particular digital work; not a generic usage right to any work he chooses. As apparent from col.4 lines 6-14, and 40-49, the holder of a ticket has specific rights to only the particular digital work he purchased. Furthermore, Stefik discloses prior art system that has voucher with sufficient information to identify the work purchased. (See col.2 lines 62-68). There is no evidence that Stefik considers the identification to a specific work to be a problem or is undesirable. Stefik merely states that the prior art does not provide for subsequent distribution rights. (col.3 lines 10-20). The subsequent distribution right of the identified work is the problem Stefik

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seeks to solve (col.3 lines 10-20). Hence, it is inherent that Stefik's ticket still retains the indication to the work.

Regarding point b), Stefik teaches a digital work includes computer software (see col.4 lines 40-43). However, Stefik does not specifically teach "invokable software object" as being a digital work. An invokable software object is nothing more than object oriented computer program module. Chang shows that providing software as invokable software objects was known in the art at the time of the invention. (See Chang fig.2d, fig.3 #326). The rejection was not based on physically integrating Chang's system with that of Stefik's. The rejection was based on the fact that invokable software object was known at the time of the invention. The various advantages of software object over traditional structure programming were well known at the time of the invention. Stefik considers software as a digital work. Hence, providing an invokable software object as a digital work would have been an obvious variation of Stefik's teaching.

For the above reasons, it is believed that the rejections should be sustained.

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Respectfully submitted,



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Conferees:

(signatures in Ex. Answer 4/8/05)

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